C.F. 71.

1937 P 839

Department of Revenue

OFFICE Board of Revenue.

STATION Madras

Mis. No. 3292.

Dated 20-10-37

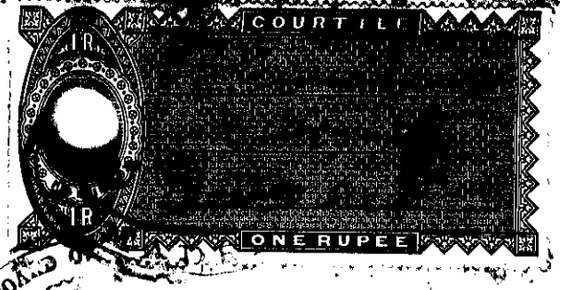
B. 5137/37

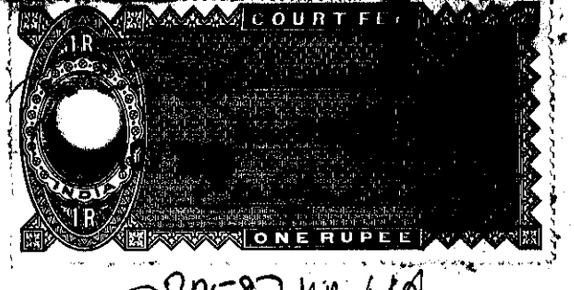
20.10.37

Pages in the file

(SUBJECT)

Assignment of Town site (Bellary) - Bellary Taluk and town - S. No. 506 B-1 - Objection - Appeal Dismissed.



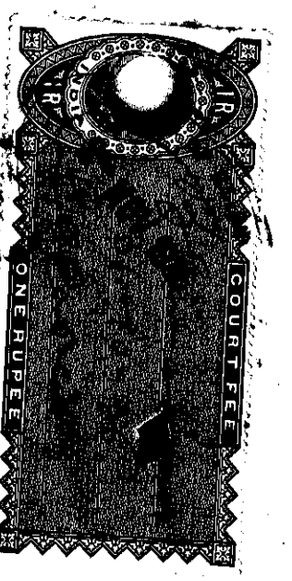


2- NOV 1936

Board of Revenue RDS87/1936 B51.37

In the Court of the ~~District~~ ~~of Bellary~~ Madras

Mis : Appeal No. OF 1936



Mr P. Narasinga Rao BA
Pleader, Bellary

~~Plaintiff~~
Appellant

Vs.

~~Defendant~~
Respondent

Mr K. Devadoss
Mechanic - Central Jail
Bellary

I ~~We~~ P. Narasinga Rao, Pleader, Bellary

herein do hereby appoint and retain Mr. B. Bhima Rao as my Advocate to appear for me in the above matter, to conduct all proceedings connected with the same, to receive documents from Court, to execute any decree that may be passed in my favour and to receive money or other property that may be recovered.

I ~~We~~ further empower him to enter into any lawful compromise in the suit, and hereby agree to confirm, ratify and abide by all acts which he or any other practitioner nominated by him in this behalf may do in the above matter,

× P. Narasinga Rao

Executed before me this ~~day of~~ 31st October 1936

P. Raghavendrachar
~~Magistrate.~~
Municipal Councillor Bellary
31/X/36

In the Court of the ~~District~~
~~of Bellary.~~

Mrs. Attadoy

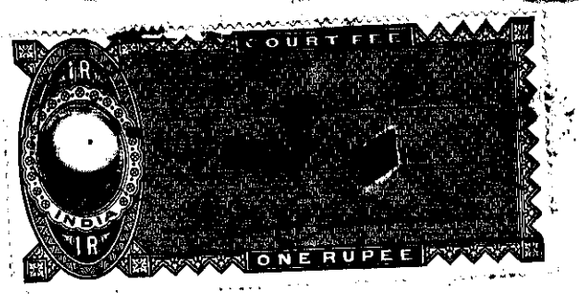
193 6

Vakalat on behalf of Her
P. Narasinga Rao
Pleader Bellary

accepted
B. Bhimarao
Advocate
Bellary
31/10/36

Address: —

B. BHIMA RAO B. A., B. L.,
Advocate,
BELLARY.



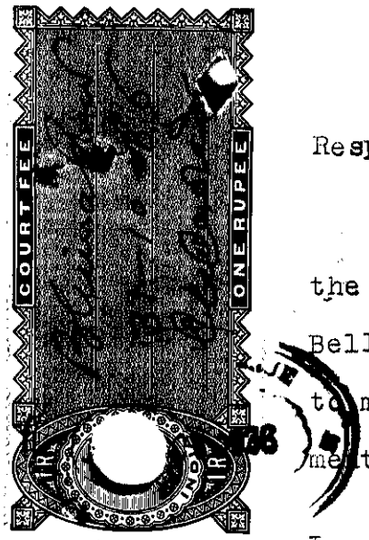
3/ Bellary 4-T
31st Oct 36

To

The Secretary,

Board of Revenue,

Madras.



Respected Sir,

I, P.Narasinga Rao, Pleader, Bellary beg to prefer the following appeal against the orders of the Collector Bellary dated 9th September 1936, which was communicated to me on the 10th September 1936 relating to the assignment of town site in Bellary for building purposes.

I. I am the owner of S.Nos.514 and 515 of the town of Bellary, wherein I have constructed a bungalow at a cost of about Rs.10,000/-. Between this land and the public road leading to the English Club there is Government land S.No.506.

Sketch at A1 1cf

II. In order to proceed to my bungalow I and the occupants therein have been passing through the land S.No.506 for several years. Sometime during the year 1935, one Mr.K.Devadoss, a Mechanic of the Central Jail at Bellary drawing a ~~sk~~ salary of Rs.110/- per mensem applied to the Collector of Bellary for grant of a portion of S.No.506, a sketch of which is submitted herewith. When I came to know of his application I immediately raised my protest urging that the construction of a building in front of my bungalow would mar its beauty and deteriorate its value and render the whole locality ugly. I also urged that the construction of any other building in S.No.506 would be against all principles of Town planning besides being an obstruction to the passage ~~to~~ my bungalow. I also submitted that the land may be granted to me and if necessary that it may be put up for auction for the highest bidder. Neverthless the Collector of Bellary was pleased to grant a por-

P.Narasinga Rao

tion of S.No.506 to Mr.K.Devodoss in spite of the fact that the Municipality had recommended the grant of the site to me. The Collector in doing so has charged a nominal price of 4 as per square yard, whereas the prevailing price in the neighbourhood is at the rate of Re.1/- per square yard.

III. The order passed by the Collector was never intimated to me and it is only on my making an application to the Collector by registered post that I received intimation on the 10th September 1936 that my application had been rejected and I was not informed therein that the site had been granted to Mr.K.Devodoss. On the 22nd September 1936, I preferred a copy application to the Collector of Bellary for all necessary copies for preferring an appeal to the Board of Revenue, when I was granted a certified copy on the 8th October 1936 of the order of assignment in favour of Mr.Devodoss and I was referred for other copies to the Tahsildar of Bellary and to the Commissioner of Bellary Municipality. I got the other copies from the Tahsildar of Bellary through my vakil on the 27th October 1936 and I am now preferring the appeal against the order on the following grounds.

(1). The assignment is contrary to the provisions contained in B.S.O.No.21.

(2). It is an independent plot between the bungalow of the Appellant and the public road and ought not to have been granted to Mr.Devodoss, who is a Government Employee drawing a salary of about Rs.110/- per mensem at a nominal price of 4as per square yard.

(3). Since K.Devadoss is not an agriculturist he need not have been shown the concession, which has been granted to him by the Collector of Bellary.

99

Rsp 21-14
Dis.(iii)
as amended
Govt. No. 640
P&C. Vol I

(4). Since the Appellant is the adjacent owner of the site and since he also applied for the same he ought to have been granted the site in priority to Mr.K.Devadoss.

(5). The value of S.No.506 is at least Re.1/- per square yard and the Appellant is prepared for paying the value of S.No.506 at the said rate if it is granted to him and he is prepared to keep the place open if required.

(6). The Collector ought to have directed an auction of the site to the highest bidder according to the rules and in the circumstances of the case ought not to have granted the site to Mr.Devodoss against the recommendation of the Municipal Council.

(7). The construction of any buildings in the site granted would mar the beauty of the Appellants Bungalow and deteriorate its value. Moreover the whole locality would be rendered ugly by the construction of any building on the site. The principles of Town Planning would be infringed by the construction of buildings in the site in question.

IV. The Appellant therefore submits that the records of the case may be called for and perused and that the order of assignment in favour of Mr.K.Devodoss may be set aside and that the site in question may be put up for auction to the highest bidder or in the alternative, assigned to the appellant subject to conditions as the Government deem fit to impose.

V. It is also prayed that Mr.Devodoss may be directed not to raise any building on the site till the appeal is disposed of.

Note:- The appeal is in time on account of the following facts.

(1). Date of intimation of rejection of the Appellant's Application ... 10-9-1936.

(2). Copy application made for grant of necessary orders for appeal. 22-9-1936.

P.T.O.

(3).Date of grant of certified copy of order assigning the site to Mr.Devodoss. 8-10-1936.

(4).Other copies granted by the Tahsildar of Bellary. 27-10-1936.

Appeal preferred on ... ... 31-10-1936.

Hence the appeal is in time.

Enclosures.

Copy of Collector's Ref.C.No.1803/36 dated 9-9-1936 . rejecting the site to the applicant.
2.Copy of Collector's Ref.C.No.Nil dated 30-9-36 directing the Appellant to the Tahsildar of Bellary and the Commissioner of Bellary for copies.
3.Certified copy of the order of the Collector of Bellary assigning the plot to Mr.K.Devodoss.
4.Copy of Tahsildar's L.Dis.C.A.No.101/36 dated 28-10-1936.
5. Copy of the certified sketch showing the plot assigned to Mr.Devodoss.

I beg to remain,
Respected Sir,
Your most obedient servant.

M Narasinga Rao
Appellant
Bellary

B Venkoba Rao
Pleader, Bellary.
31/10/36

Board of Revenue, Madras.

Mis.Appeal petition /36.

Appeal petition on behalf of Mr.P. Narasinga Rao of Bellary against the order of the Collector, assigning a site to Mr.K.Devadoss under B.S.O. No.21

B.Bhima Rao.B.A.B.L.

Advocate, Bellary.

9

Ref.C.No. 1803/36.

Collector's office, Bellary,
Dated 9-9-1936.

Received 10.9.36 10 a.m.

Endorsement.

House site - assignment - Bellary taluk and town - S.No.506 B/1 application of P. Narasinga Rao.

Read application from P. Narasinga Rao dated 21-8-36.

The applicant is informed that his application for the site in S.No. 506 B/1 of Bellary Town has been rejected.

(by order)

Eng. Head Clerk.

P.S. 9/9.

To M.R.Ry. P. Narasinga Rao B.A, Civil Lines, Bellary.

Copy to the Tahsildar, Bellary.

C.F. 34.

PROCEEDINGS / MEMORANDUM OF THE Collector of Bellary.

*Post Box No.*_____ *Telegraphic Address*_____

Name T.Bhaskara Rao Esq.,I.C.S.,

Ref.C. *No.*_____, *dated* 30/9/1936. *193*

Short title House site - assignment - Bellary Taluk and town copies of certain records - application of P.Narasinga Rao.

READ—the following :—

pplication of P.Narasinga Rao dated 22-9-1936.

Endorsement.

The petitioner is informed that records relating to item No.1 to 5 are filed in the Taluk office. He may apply for copies to the Tahsildar Bellary.

2. As regards item No.6, he may apply for copies to the Chairman, M.C. as the originals are filed in his office.

3. Item No.7 only a copy of the assignment order will be granted to him.

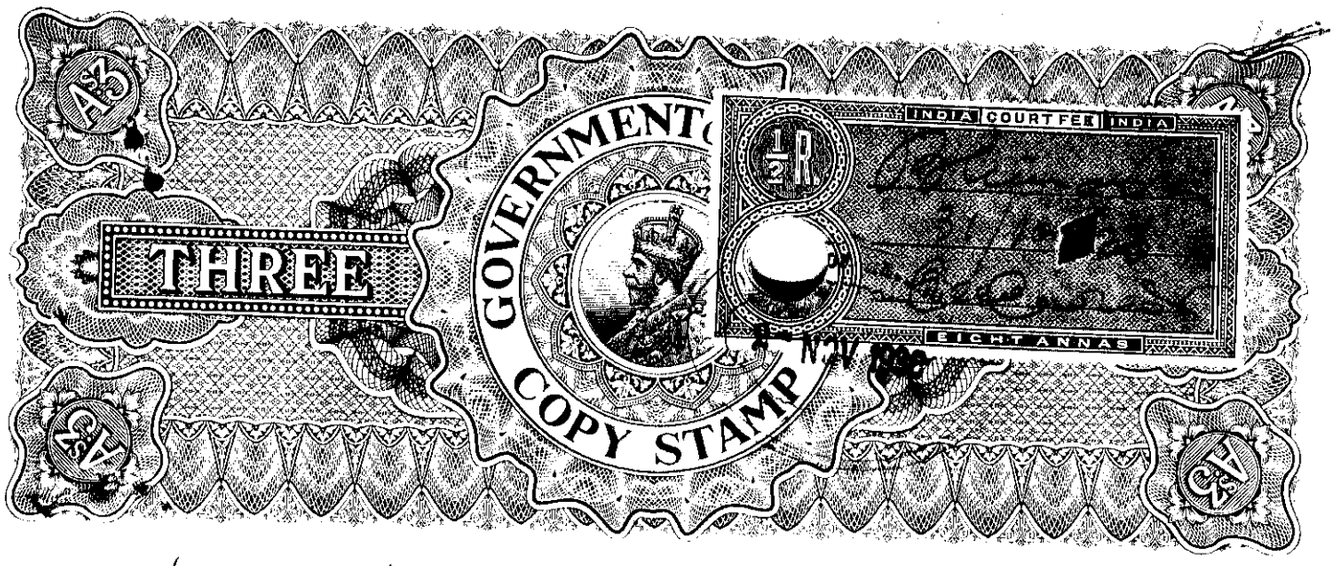
(By Order)

Huzur Sheristadar. 1X 30

RVJ/1.10.

To The Petitioner Mr.P.Narasinga Rao,Bellary.

Copy to the Tahsildar,Bellary.



Subject:- Assignment- house site - Bellary Town.
SNo 506 B-1 Portion - Application of Devadas K.
orders Passed.

Ref CNo 1803/36 dated 27.8.36

Proceedings of The Collector Bellary.

Read. 1) Bellary Tahsildar's T.H.S. 9/45 dt 20.7.36
2) This Office reference 1803/36 dt 24.7.36 & The Tahsildar and his reply T.H.S 9/45 dt 16.8.36

- Order.

Sanction is accorded to the assignment of a site measuring 625 sq yds to K. Devadas, in SNo 506 B-1 of Bellary town, subject to the ~~Market~~ Payment of the market value at Rs 24-0 per sq yards and the annual ground rent.

(SD) G. Batty
For Collr 27.8.36

(True Copy)
(By order)

Superintendent
English Head Clerk 10 36

Copies sent to
Comparing N. Subramanian
No of words (112)
No of Corrections nil
Date Despatch 6.10.36
When Copy ready 7/10/36
Date Despatch 8/10/36

Read 27/10/36

L.Dis.C. A 101/36

Bellary Taluk Office.
Dated 22-10-36

Endorsement.

With reference to his copy application on behalf of P. Narasinga Rao B.A. Pleader, Bellary in connection with plot in S.No. 506 of Bellary. M.R.Ry. B. Bheema Rao Advocate Bellary is informed that the copies of the following records have been granted and sent herewith.

(1) Darkhast application made by his client P. Narasinga Rao B.A. for a plot in S.No. 506.

(2) Mr. Devadoss's application for a plot in S.No. 506.

(3) Copy of notice ~~above~~.

(4) Copy of objection petition to the Collector alone.

(5) Copies of sketches showing the plot applied for by P. Narasinga Rao and Mr. Devadoss.

(6) Objections submitted by Mr. P. Narasinga Rao to the Tahsildar (Mr. Joogappa) and his remarks on the application. This is not available in this office.

(7) Copies of opinion of the Rev. Divl. Officer, Tahsildar, Rev. Inspector and village officers cannot be granted For copy of final orders of the Collector the petitioner may apply to the Collector.

Five unused copy stamps are returned herewith.

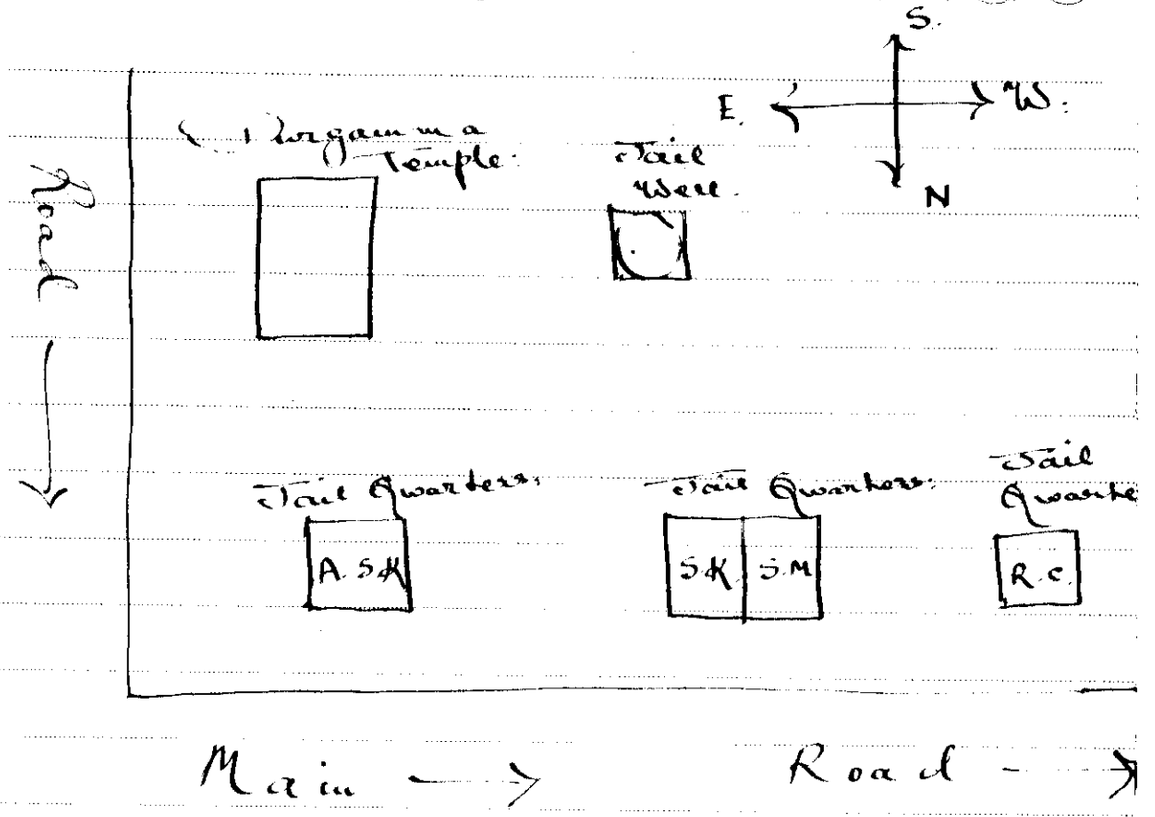
HV 26/10

For Tahsildar.

To

M.R.Ry. B. Bheemarao Garu
B.A.B.L.
Advocate
Bellary

THREE ANNAS
GOVERNMENT OF MADRAS
COPY STAMP



Drain.

Govt Waste Land

Mr Narasinga Rao's Land:

Path to Mr Narasinga Rao's Land:

Drain.

Govt: Waste Land:

Mr Narasinga Ra
Land:

THREE
GOVERNMENT OF I
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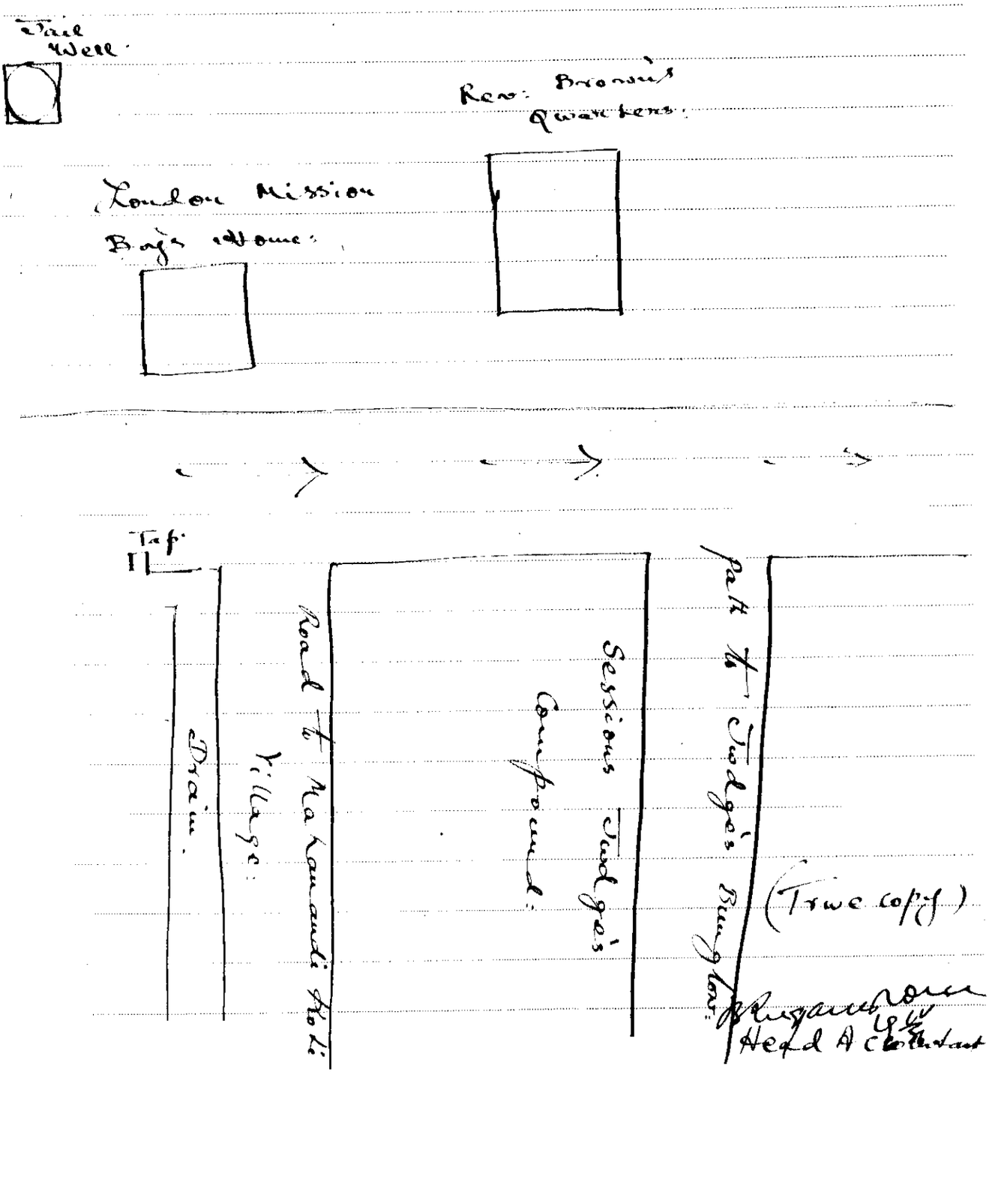
INDIA COURT FEE INDIA
½ R.
EIGHT ANNAS

Sketch showing the Govt. Waste Land.



(True copy)

Superintendent
Head Assistant

19

T. F. H.

Assignment - ~~Land~~ - ~~Encroachment~~ - (Town Sit Bellary

Bellary taluk and town.

~~Village~~ - S.No. 506. B1. Objection Appeal against the order ~~Petition~~

Read: R.No. 5137 / 36 (2) to this

Reference No. B 5137/36-1 dated 4-11-36.

Forwarded to the Collector of Bellary for submission of the records with any remarks which he considers necessary regarding the allegations in the petition which are not clearly dealt with in the records.

2. The 'stay' asked for by the appellant is refused.

4.11.36

4.11.36.

4.11

To the Collector of Bellary

with petition and enclosures

(to be returned with reply)

Both Appellants — Para 2 only
(Vide his counsel)

(M. A. Ry. B. Bhima Rao

Advocate

Bellary)

C.F. 32.

reply, please quot umber, date and short title.*

21 Revenue. DEPARTMENT.

Received *Registered*

5909
6137/36

From (Name) A.G. Blake Esq.,I.C.S.,

(Designation) Collector of

Post Box....., (Station) Bellary.

Telegraphic Address.....

To

The Secretary to the Board of Revenue,

MADRAS.

Ref.C. *No.* 1803/36A3 *dated* 14-12-1936. *19*

Sir,

Enclosures one file

Spare Copies.....

Enclosures Sent
H.J. Nego Post

* Assignment - Town site - Bellary Taluk and town - S.No.506B/1 - objection - appeal by P.Narasinga Rao - connected records sent.

Board's Ref.B.No.5137/36-1 dated 4-11-1936.

I submit herewith the appeal petition of P.Narasinga Rao with all its enclosures. It is seen from the report of the Revenue Divisional Officer and the Tahsildar Bellary that the plot assigned to K.Devadoss is an independent one, in which the appellant has no claim whatever. I have nothing more to add than what is contained in the reports of the Tahsildar and R.D.O. Bellary at pages 57 and 61 respectively of this office current file. This office file C.No.1803/36 of 96 pages of current file and 14 pages of note file and the Taluk office file containing 98 pages are enclosed.

RVJ/15.12.

15/12

For Collector.

23 J. F. H

Assignment. Town sit. (Bellary)

Bellary Taluk & Town - S. No. 506 B1

Objection. Appeal against the Coll's order

Read:- From the Coll of Bellary,

Ref. C. No. 1803/36 A3 of 14.12.36.

DESPATCHED
4- FEB 1937

Ref. No. B 5137/36.2 of 29.1.37

The Board observes that one Mr. P.P. Kumara Pudwal has issued a notice of suit to the Coll. claiming the ownership of the site assigned to Mr. Devadoss and that the matter was being enquired into by the Tahs, Bellary, when he sent his report No. T.H.S. 9/45 of 20.11.36. The Coll. is requested to report whether the question of ownership of the site in question has been finally decided.

28/1/37

29.1.37

28/1/37

Q I 3.4.37

Q II 5.4.37

Q III 5.6.37 7/6.

To the Coll. of Bellary
with two files to be returned
with reply

ed
3/7/1

14

No. 089

For Insurance Notices see overleaf. Stamps affixed except in case of uninsured letters not exceeding 4½ tolas or one ounce in weight or on which no acknowledgment is due.

(Rs.) As.

Date-stamp.

Received a registered * ——————

addressed to ——————

B.5137

——————

——————

* Write here "letter," "post-card," "packet" or "parcel" with the word "Insured" before it when necessary.

Initials of Receiving Officer.

If insured:

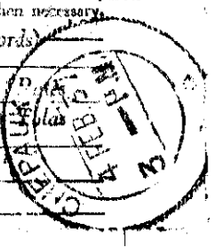
Insured for Rs. (in figures) —————— *(in words)* ——————

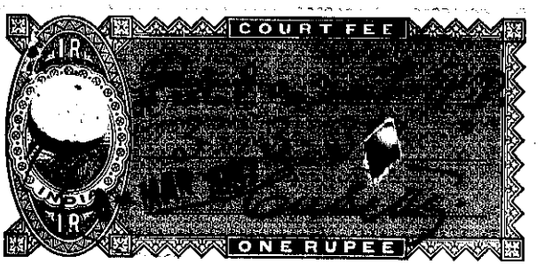
Weight ——— *Date-slip*

Insurance fee Rs. ——— *As.* ——— *(in words).* ——— *No.*

Name and address of sender. ——————

——————





RP 799
S137/36

The Commissioner of Land Revenue
Board of Revenue

In the Court of the ~~District~~ Judge ~~Judge~~ Munsif of ~~Bellary~~.

~~Suit~~ No. of 1937.

BETWEEN:—

P. P. Kumara ~~Subbarao~~ { Plaintiff. Petitioner. Appellant.

AND

{ Defendant. Counter-petitioner. Respondent.

To

M. R. Ry.

P. SRINIVASA RAO, B.A., B.L.,
ADVOCATE, BELLARY.
పి. శ్రీనివాసరావు, బి.ఎ., బి. యల్.,
అడ్వొకేటు, బళ్లారి.

వ్రాయించియిచ్చిన వకాల్తునామా:—

నా పైనంబరులో
అయిన పైకనుపరచిన వకీలుగారిని 1వ పరము హాజరయి వివాదము జరుపను, సదరి నంబరులో జరుగగల యేవిధమైన వ్యత్యపులు, లేక డిక్రీలు అమలు జారి జరిగించుటకున్ను, సదరి నంబరు విషయములో జరుపదగు యితర కార్యములన్నిటిని 2వ పరము జరుపుటకున్ను, సదరి వకీలుగారికి యుక్తమను తోచువిధముగా యీనంబరును రాజిచేయించి కోర్టులో దాఖలు చేయు రాజీనామాను 3వ పరము దస్కతు చేయుటకున్ను, ఈనంబరు సందర్భములో కోర్టు నుండి పత్రములు వగైరాలు, సకల బాబతు పైకము తీసుకొనుటకున్నూ 4వ పరముగా వారిని నియమించి అధికారము యిచ్చియున్నా 5వ

ఇంతేకాక అవశ్యమైనయడల సదరి వకీలుగారు తమ తరపున హాజరయి సకల కార్యములను జరిపించను యితర వకీలును నియమింపను అధికారము యిచ్చియున్నా 6వ పైనంబరులో సదరి వకీలుగారికి యేర్పాటు కాబడిన ఫీజు బాబతు యేభాగముకాని యివ్వక బాకినిలిచిన సదరి వకీలుగారు 7వ పరముగా పనిచేయను నిమిత్తములేదని యిందువల్ల ఒప్పుకొనుచున్నా

P. P. Kumara
3-3-37

యీవకాల్తునామా నాయెదుట కర్తమముగా చదివి చెప్పగా సరిగావున్నదని ఒప్పుకొని సంతకము 8వ ~~Vakalatdar~~ ~~పార్టీనర్ పేరి సంతకం~~ చేయడమయినది.

3-3-37

26

In the Court of the District Judge / Munsif of

BELLARY.

No. of 193

VAKALAT ON BEHALF OF

Accepted
P. Srinivasa Rao
Advocate
3.3.37

P. SRINIVASA RAO, B.A., B.L.,
Advocate, BELLARY.
పి. శ్రీనివాసరావు, బి.ఎ., బి.యల్.,
అడ్వొకేటు, బళ్ళారి.

Advocate for.

27

To

The Commissioner of Land-Revenue,

Board of Revenue, Madras.

Subject: House site Bellary Village and Town-Survey No. 506 B-1 -allegations against illegal assignment of private site-Petition.

Sir,

The humble petitioner Doctor P.P.Kumara Poduval practising in Tracenetta, Bellary begs to bring the following facts to your honour's kind consideration and orders:

1. The petitioner has purchased an old building site for a full consideration of Rs.400/- under a registered sale deed dated 11-12-1935 from one Kandra Nagamma wife of Kandra Desnappa and the said Nagamma was the sole owner and title holder of the site under litigation.

2. The building site with six huts was originally the property of one Uravakonda Mala Dasari Rangadu since 90 years. The documentary evidence shows that the site was granted by the Government to the said Rangadu some 90 years ago free of cost. In 1870 the said Rangadu mortgaged the whole property for Rs.35/- in favour of one Siragapura Googoorappa of Bellary on condition to redeem the property within four years. According to the conditions of the said document the mortgagor paid the mortgagee the money due and redeemed the property and enjoyed it till his death.

3. After the death of Dasari Rangadu his son Dasari Papigadu inherited the properties and enjoyed the site in question with the existing huts. In 1894 Dasari Papigadu

in turn sold away the property with the then existing huts to the said Kandra Seshappa of Bellary for a consideration of Rs.25. So, Kandra Seshappa became the owner and enjoyed the property till his death. After his death his widow Nagamma the sole heir and legal representative continued to be in possession of the property and enjoyed the property till the latter part of 1906.

4. In 1906 the said Nagamma mortgaged with possession the said property with the existing huts to one Korisetti Sanna Nagappa of Bellary for a consideration of Rs.100 for a period of 30 years.

5. Sanna Nagappa accordingly enjoyed the property as the usufructuary mortgagee with the existing huts till 1918. He leased out the properties to his tenants and obtained lease deeds to that effect and through his tenants he enjoyed till the year 1929. He further leased the site for pounding cattle and sheep and as the then existing huts were in a dilapidated condition, the building site with the then four existing walls covered with thick prickly pear, was used for domestic purposes till 1929.

6. In the year 1929 the prickly pear was destroyed owing to an insect pest and the site became open and vacant with the full identification marks of ridges etc. The site was kept vacant and in the possession of the mortgagee according to the terms of the document executed by Nagamma.

7. In December the petitioner purchased the said building site for a sum of Rs.400/- from Kandra Nagamma on condition of paying a sum of Rs.100/- the outstanding amount due under the mortgage, less the cost of the then existing huts valued at Rs.40/-. The petitioner accordingly paid the amount to Nagappa and redeemed the property and as he was already the owner of the property as per the sale deed in his

favour, he continued to be in possession thereof as original owner.

8. On or about 7-9-1936 the petitioner learns that the Tahsildar of Bellaryhad proposed to assign a portion of the said site to one Mr. K.Devadas, a subordinate of the Bellary Central Jail.On 7-9-1936 the petitioner filed a petition before the Tahsildar and the Collector of Bellary informing that the said building site proposed to be assigned was a private property purchased by the petitioner as aforesaid and that the Government cannot assign it to any one. The petitioner was summoned by the Tahsildar and his statement was recorded. He showed all the documents supporting his claim. Unfortunately neither the Tahsildar nor the Collector took any steps in deciding his claim, nor made enquiry that is required under Law. On the other hand, an exparte order was granted to Devadas on ~~12~~ 12-9-1936 granting him the site applied for.

Page 31 (L)

9. The petitioner waited for the final orders from the Collector or from the Tahsildar in the matter. But emboldened with the order aforesaid the said Devadas began to construct a house on the site with the utmost precipitency.

10. When the assignee with the help of some of the officers began to construct a building on the petitioner's site and was tampering with the demarcation marks and other evidentiary portions The claimant protested but to no effect and in order to get his grievances redressed he had to go to a court of law.

11. The petitioner therefore was obliged to file a suit in the District Munsif's court of Bellary in O.S.No.748/36 against the said Devadas and Kondra Nagana for a declaration of his ownership to the property and for an injunction restraining the defendantfrom proceeding with the further construc-

Page 36 (L)

tion

and a mandatory injunction to remove the construction and restore it to its former condition.

12. The 1st defendant in O.S.748/36 -Devadas- is now contesting the suit, and he has no right to the property nor was possession ever granted by the revenue authorities, except -some assignment order. The rules strictly require that possession should be delivered over to the assignee and a document be made to that effect.

13. In the absence of such transaction and in face of numerous irregularities and illegalities in the matter of assignment, the assignee gets no right to the property and is a mere trespasser. A mere memo or title deed in token of the assignment cannot hold good and on the strength of it no possession can be obtained, except by due course of law according to the Board's Standing Orders. If a third party is in possession of the property it is for the assignee to seek remedy in a court of law and get possession.

14. The matter therefore be presumed to be pending before the Collector in respect of final orders on the application made by the petitioner.

15. With regard to the suit filed the said assignee Devadas is contending that the Government is a necessary party and that on the strength of the patta he is entitled to proceed with the construction. Meanwhile one Basari Venkatappa who is said to be the legal heir of Basari Ranguda has come forward and since been made a party to the suit. This petitioner is contending that the Government is not a necessary party to the suit and is yet to be decided by the court.

16. It may thus be seen that the petitioner was forced to file a suit against the assignment and submits that the assignment is invalid and inoperative in law.

17. The petitioner submits that the revenue entry in the revenue accounts for the site in dispute is a village site poromboke is common to all private buildings effected in original survey and settlement in 1894 and had been continued in each and every field in which such entry is found. Thousands of private buildings are situate on such sites. Such entry is therefore is made under a bonafide mistake of fact owing to the non-survey of the town area. No material change is effected in the classification either and there are existing private buildings thereon.

18. The Bellary town or municipality is not surveyed either in the original survey in 1894 or during re-measurement operation in 1910 or in the re-settlement in 1925, except the formation of big blocks of survey fields and ~~rather~~ rare sub-divisions of patta lines.

19. The site under dispute is a plot lying in S.No. 506-B/1 with an extent of about 50 acres of the Bellary village. Page 37 (L) This sub-division latter which itself is wrongly mentioned contains municipal trunk roads, and other small roads, private, temple sites, well and temple, municipal sites, school buildings, private site buildings, and house sites granted on patta to private parties. All these sites are still registered in the revenue accounts as "village site poromboke", the material changes have not yet been brought to account as the town is unsurveyed. A kind perusal of the printed map of the village and that of the revenue accounts will convince the Honourable Commissioner that the entry made in the accounts as "village site poromboke" is a mere nominal factor which cannot be taken into consideration, in the presence of several documents possessed by the petitioner.

20. The petitioner further submits that the assignment and its procedure in assigning the plot under dispute are full of irregularities as noted below:--

(a) The required notice was not published in Bellary town proper. But it was said to be published at a corner of the Gandhi Nagar where there are no sufficient dwelling houses, except 4 or 5 bungalows. The attestation of one witness is inadequate in such cases.

(b) The date of publication of the notice was 3-10-35. But the Manegar certified it, as having published a notice on 2-10-35, and this is impracticable. The above publication was witnessed by one Muthyala Ramanna on 26-10-35 after an interval of 23 days. This is highly illegal, and further this abnormal delay evidently shows that the publication of the notice was not according to rules.

(c) In the notice the Karnam has signed in the space of Headman or Manegar and the Reddi has signed in the place of Karnam. Which shows that the Manegar who was required to prepare the notice did not prepare it and that the notice was prepared and published in the village through the Karnam only and the Reddy having signed leteron.

(d) Further when the notice was published on 3-10-35 the extent shown in the notice for the purpose of assignment was 10 cents. After the notification was published the extent was increased as 13 cents or 625 Sq.yards, without republishing a further notice in respect of the present extent. This is a grave irregularity and illegality which cannot be condoned. It is absolutely neccessary that a second notice and publication should have been issued for the revised area. No such second notice was published and the illegal procedure has been adopted in the matter of the assignment.

(e) In column 6 of Darakhast memo 600 Sq.yards was noted and not 625 Sq.yards as shown in the Revenue Inspectors Report.

(f) The extent in columns 12 and 13 were not entered properly and correctly as required by the rules.

(g) The Darakhast memo was prepared without the knowledge of the Manegar who is a responsible officer in dealing with house site applications. No remarks of the Manegar have been called for on this memo. The whole thing seems to have been rushed through by the Village Officers for reasons best known to themselves.

(h) The site plan applied for was prepared by the Karnam and approved by the authorities. In the sketch the length and breadth is shown as 30 and 30 yards respectively. But it never coincides with the extent of 13 cents or 625 Sq. yards and this mistake is due to Mr.Devadas dugging out his foundation according to the lines marked in red ink in the enclosed sketch given by the Collector. The portion on the left side marked in the sketch is left as vacant site, which can never be so according to rules. The boundary of the plot begins from survey stone marked A. In the circumstances the boundary description of the plot is wrong and is likely to lead to further litigation. The report of the revenue Inspector describing the position of the plot applied for giving mere measurements to locate the plot is not at all agreeable to the site on the sketch.

21. The petitioner therefore prays that the assignment of the plot in dispute has been under a mistake of fact by the authorities in question and is brizzled with illegalities and irregularities which vitiate such assignment. The petitioner therefore requests that the assignment may kindly be cancelled in consideration of all the points noted above and to declare that the site is sole property of the petitioner. Copies of necessary records are submitted for perusal and early return. Praying for urgent orders.

Petitioner begs to remain,
Yours most obediently,

3rd March 1937.
Bellary.

Petitioner.

F. F. H

Assignments. Town Sch. (Bellary)

Bellary Taluk & Town. S. No 506 B1.

Objection.

Rec. - B1069/37. Petition of Sri P. P. Kumara Podival dt 3.3.37 -

DESPATCHED
13 MAR 1937

Refer No. B 5137/36.3 dt 12.3.1937

The petition presented by Mr. P. Srinivasa Rao, Advocate, on behalf of Sri. P. P. Kumara Podival Bellary has been received by this Board of Rev. but is defective for want of additional court fee labels to the value of Rs. 2 (Rupees two only) to be affixed to the vakalat. The defect shd be rectified before 8.4.37, failing which the petition will be summarily rejected.

12.3

83/37
12/3/37

P. Srinivasa Rao
Advocate
Bellary

P. SRINIVASA RAO, B. A., B. L.,
ADVOCATE.
BELLARY.

పి. శ్రీనివాసరావు, బి. ఏ., బి. ఎల్.,
అడ్వొకేటు, బళ్ళారి.

43

Date 17-3-1937.

513

To, The Commissioner of
Land Revenue
Board of Revenue
Madras.

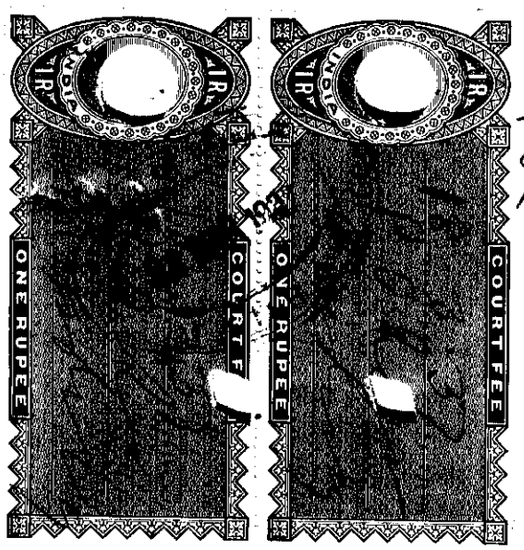
BOARD OF REVENUE
22 MAR 1937
MADRAS

Sir,

Ref: No: B. 5137/36
dt 12-3-37 - assignment
Town site - Bellary.

Herewith the Court fee
label Rs 2/- to be affixed
to the Vakalat.

I remain
Sir
Your duly
P. Srinivasa Rao
Advocate
pltr.



To AS(LR)
may be filed with
the connected
papers

22/3/37

A.S.(LR)

45

O.F.16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..		
When copied ..		
When examined..		
When signed ..	[illegible]	
When despatched.	10 MAR 1937	

SUBJECT:— Assignment - Town-site - (Bellary) - Bellary Taluk Station - S.No. 506/B1 - Objection - Appeal.

READ AGAIN ....., dated ..... 19.....

" " ..... " ..... 19.....

READ *ALSO*:—

No. B. 1069/37 From the Manager, P. Kumara Bodwal, No. ....., dated 3.3.1937 — Q.

JF 17 " B 1328/37. from Mr. P. Srinivasa Rao, Advocate Bellary 19. d. 17.3.37 — Q.

" ..... " ..... " ..... " ..... 19.....

~~Order~~ ~~Ms.~~ ~~Resolution~~ ~~Rout.~~ No. B 513/36-4, dated 5-4- 1937.

Issue
SG
5/4/37.

p23cf.

Referred to the Cr. of Bellary for remarks in continuation of this Bd's Ref B. 5737-36-28 dt 29.1.37.

SG
3/4/37

MV
5.4.37

To the Cr. of Bellary with a ref. & enclosures for to be returned with reply.

M. ARM. Lehar

C.F. 32.

reply, please quote number, date and short title.*

Revenue DEPARTMENT.

Received ... Registered

From (Name) A.G. Blake, Esq., I.C.S.,

(Designation) Collector of

Post Box ....., (STATION) Bellary.

Telegraphic Address .....

To

The Secretary to the Board of Revenue,

MADRAS.

Ref.C. No. Rev.2/37, dated 4-6-1937. 19

Sir,

ENCLOSURES

SPARE COPIES

Assignment - house site - Bellary Taluk and town S.No.506 B/1 - objection - appeal by - Komarapodval - records - submitted.

Board's Ref.B.5137/36-2 dated 29-1-1937.
-do- /36-4 dated 5-4-1937.

I submit herewith the appeal petition of Messrs. P.P. Komara Podval and P.Sreenivasa Rao with all enclosures received from the Board. It is evident from the reports of the Tahsildar and the R.D.O Bellary which are at pages 97-111 of this office file, that the appellant has no right over the plot assigned to Devadoss. The case appears to have been concocted. The appellant has filed a suit in the court of the Additional District Munsif against the assignee, adding the Government also as a party to it. The suit is pending in that court and is posted to 20-7-37 10th instant. I have nothing to add to what is contained in the report of the Tahsildar Bellary which deals in detail with all the points raised in the suit notice and the appeal petition.

2. This office current file containing 112 pages and the files of the Taluk office files and the Revenue Divisional Officer's office are sent herewith, for reference and return. These records may kindly be returned as early as possible as they are required in connection with the suit referred to above.

RVJ/4.6.

4-6-37.

For Collector.

S137/36.

B2710

28 JUN 1937

To,

The Collector,

Bellary.

Bellary.

Dated 16-6-37

Honoured Sir,

Subject:- Irregular Assignment House site- Bellary Village, and Taluq- Appeal Petition to the Board of Revenue.

The petitioner has put in a petition to the Board of Revenue Madras, on 3rd March 1937 through his advocate, M.R.Ry P.Srinivasa Rao, Garu, praying for the cancellation of the site assigned to one Mr. Devadoss of Bellary.

Accordingly the Revenue Board have forwarded the petition to the Collector who sent it to the Tahsildar Bellary for report.

The Tahsildar of Bellary has recorded a statement from the petitioner regarding the transaction relating to the site in dispute. In this connection the petitioner begs to state that the Tahsildar is highly prejudiced against the petitioner and he is likely to tamper evidence regarding the site.

After the statement of the petitioner was recorded the petitioner put in a petition to the Tahsildar on 4-5-37 through his advocate requesting him to try all the witnesses on obtaining the original documents from the Dt. Munsif court Bellary in O.S.No. 748/36 where they had been filed and hold the enquiry into the matter by confronting the witnesses with the original documents and in the presence of the petitioner's vakil with an opportunity to cross examine the same if necessary. The Tahsildar without considering the merits of the case summoned all witnesses and recorded their statements except without the original documents in spite of my request to get the same from the Dist. Munsif court.

2 52

The action of the Tahsildar is quite against the Law without giving a chance to cross examine the witnesses. Further the petitioner understands that he induced Kandra Nagamma who is an old and decrepit woman of 70 years to make her statement without showing the documents executed in her favour or by her, and according to the necessity required by the Tahsildar. The petitioner also learnt that the said Kandra Nagamma was given a few annas and it is not known whether the same was given as witness batta or not.

This will only lead to want of proper appreciation of true evidence which is shut out and failure to weigh evidence in the light of duoments not secured at the time of enquiry.

The above state of things has mde the petitioner great ly apprehensive of the justice of the cause being upheld and the petitioner feels that he will not secure justice if the enquiry is held by the Tahsildar.

The petitioner, therefore, begs your honour that the whole trial may kindly be ordered to be held by the Revenue Divisional Officer, Bellary and after receiving the original documents from the Dist Munsif court, Bellary and permit the petitioner's counsel to conduct the enquiry so as to secure justice to the petitioner.

For which act of kindness the petitioner ever prays,

I remain,
Sir,
Yours Truly, and
Obediently,

Bellary.
Dated 16-6-37

Medical practitioner,
Kambli Bazaar, Brucepeta,
Bellary.

Copy submitted to the Board of Revenue Madras for favour of consideration

To As(LR)
The main file is being put up separately with a note - This is a copy of the petition addressed to the Collector may be added to the file

P P Kumara 16/6.

Ahvn 16637

C.F. 32.

In reply, please quote number, date and short title.*

Revenue 5 DEPARTMENT.

Received *Registered* B. 2892

5137/36.

From (Name) A. G. Blake Esq., I.C.S.,

(Designation) Collector

Post Box ....., (Station) Bellary.

Telegraphic Address .....

To

The Secretary to the Board of Revenue,

MADRAS.

Sir,

R.C. *No.* 1803/36A3 *dated* 26th June 1937.

*Sub:- Assignment- House Site- Bellary Taluk and Town- S.No.506 B/1- appeal by Kumara Puduval records- return- requested.

Ref: My Reference 1803/36-A.3 dated 4th June 1937.

*****

The suit referred to in my reference quoted above is posted to 20th July 1937. Sanction of the Board has to be obtained to contest the suit. I therefore request that the records which were sent with my reference may kindly be returned at an early date.

For Collector.

26/6/37

H.V.R.26/6.

26.6

ENCLOSURES.....

.....

.....

SPARE COPIES.....

53 JFH

DRAFT FOR APPROVAL. C.N. 10.

	Date.	Initials.
When received for fair copying		
When copied		
When examined	4/7	DR
When signed		
When despatched		

DESPATCHED 7 JUL 1937

SUBJECT :— Assignment. house site (Bellary) Bellary Municipal Town — Suit no 506 of 37 appeals by Kumara Swamy and P. Narasinga Rao.

READ AGAIN ——— 7-JUL 1937 ———, dated ——— 19——.

" " ——— " ——— 19——.

READ *ALSO* :—

No. B2491-37 From the Collr of Bellary Regd, No. 1803-36 A3, dated 4-6-1937 p.w.cy

" B2892-37 " do Regd " 1803-36 A3 " 26-6-1937 p.5 cy

" ——— " ——— " ——— " ——— 19——.

Regd Order Resolution ~~Ms.~~ Rout. No. B5137-36-5, dated 6-7-1937.

Immediate. DS 6/7/37

The Collector is requested to submit immediately the note file relating to his office-current file no. 1803-36-A3 for the Board's perusal and return.

2. The Collector is also requested to apply for a long adjournment of the suit

AL 6737 Ld 6.7.37.

Dupl 6/7/37 DS 6/7/37.

To the Collr of Bellary

55

C.F. 32 (a).

In reply please quote number date and short title.*

Revenue DEPARTMENT.

Received *Registered* B3200 5737.36.

From (Name) A. G. Blake Esq., I.C.S.,

(Designation) Collector

Post Box , (STATION) Bellary

Telegraphic Address

BOARD OF REVENUE MADRAS 17 JUL 37

To

The Secretary to the Board of Revenue,

Madras.

R.C. *No.* 1803/36 A-3 *Dated* 12th July *193*7.

Sir,

* Assignment- House site-Bellary Taluk-Town- S.No.506.B-1- appeals by P. Kumara-Podval and P. Narasinga Rao note file-sent.

Board's Reference B.5137-36-5, dated 6th February 1937.

ENCLOSURES are file

SPARE COPIES

I submit herewith note file containing 20 ~~papers~~ pages relating to this office current file No. 1803-36 A-3 as required by the Board. The Govern-ment Pleader is being instructed to apply for a long adjournment of the suit.

12/7

For Collector.

Copy to A-1 for addressing the Government Pleader, Bellary.

JFH 57

Draft.

Assignment- Town site- (Bellary)- Bellary taluk and town- S.No. 506- B.1- Objection petitions.

DESPATCHED 31 JUL 1937 R.P.

M1-6 y No.B. 5137-36 from Mr. P. Narasinga Rao dated 31-10-1936

M27-39 y No.B. 1069-37 from Mr. P.P. Kumara Poduval dated 3-3-37.

p47 y No.B. 2491-37 from the Collector of Bellary Ref. C. 1803-36 dated 4-6-37.

p55 y No.B. 3200-37 from the Collector of Bellary Ref. C. 1803-36 dated 12-7-37.

11 AM 29/7/37 Issue V.E. 29/7/37

Refce. No.B. 5137-36-6 d/ 29.7.37

M31-32 y (K) In his Proceedings Ref. C. No.1803-36 dated 27-8-36 the Collector of Bellary sanctioned the assignment on payment of market value of S.No. 506 B-1 of Bellary Town to one K. Devadoss. Mr. P. Narasinga Rao, Pleader, Bellary, has appealed to the Board of Revenue against the Collector's order.

M45 y The main contentions of the appellant are that he had also applied for the assignment of the plot, that it should have been sold in auction and that the assignment by private negotiation to K. Devadoss, a Government servant on a salary of Rs.110/- per mensem was contrary to the provisions in B.S.O. No.21.

2. The Board has perused the connected records. It observes that the plot in question is an independent plot and it had not been in the temporary occupation of the assignee. Collectors may dispense with the sale of occupancy right by auction

and direct private sale of town sites only in the circumstances mentioned in B.S.O. No.21-14. In the present case none of the three circumstances mentioned in the B.S.O. exist. The Collector's order sanctioning the assignment was in excess of his powers and is therefore liable to cancellation. The Collector is requested to issue a notice to the assignee, Mr. Devadoss, to show cause within a period to be fixed by the Collector why the order of assignment should not be cancelled and to submit to the Board with his own remarks any representation which he may make.

3. On a perusal of the Collector's Office note file the Board observes that on receipt of the application of K. Devadoss the Collector inspected the site on 6-5-36 and ~~was of the opinion that there was no objection to its assignment and that~~ directed the Tahsildar to assign it to him ~~The Tahsildar was instructed to take steps for its assignment~~ provided that ~~the applicant~~ he had no other house. ~~The Tahsildar then~~ The Tahsildar enquired whether the assignment was to be free or on collection of market value. At this stage the Collector's office noted correctly ~~on 3-7-36~~ that the Collector could assign the land free if the applicant was too poor to purchase the site in auction. The Tahsildar was then asked to report ~~if~~ whether the applicant was too poor to pay the cost and whether he deserved any concession. ~~The Tahsildar then~~ The Tahsildar recommended that the value of the site should be collected from the applicant. In the

notes

notes put up on 23-8-36 the Collector's office not only failed to point out that the Collector was not competent to order private sale in the circumstances of the case but even went to the length of noting that the land could be assigned on payment of market value. The Collector is requested to take suitable notice of the person responsible for putting up such an incorrect and misleading note to him.

P13 N.F.

4. The Board also observes that in his letter No.Ref. C.1551-36 F. dated 17-4-36 forwarding the report of the Tahsildar the Revenue Divisional Officer, Bellary (Muhammad Abdul Khadir Sahib Bahadur), remarked that para 14 of B.S.O. No.21 was only discretionary and the words "if he considers such a course equitable" in it did not seem to fetter the Collector's discretion and would cover a case like that of K. Devadoss. The discretion contemplated in the B.S.O. quite clearly exists only with reference to the decision whether a sale by private negotiation should or should not be ordered when the circumstances mentioned in that B.S.O. exist. The Collector has no discretion to order a private sale when those circumstances do not exist. The Board is astonished to find that such incorrect views should have been expressed by any Deputy Collector and that they do not appear to have been corrected by the Collector. If he has not already done so, the Collector should without further delay correct the misapprehension under which

which the Deputy Collector is labouring.

To the Collector of Bellary with

records to be returned with reply.

List to b e copied in duplicate and sent

(R) (1) Bellary Collectorate office file C 1803-36/13 — Current + Index files

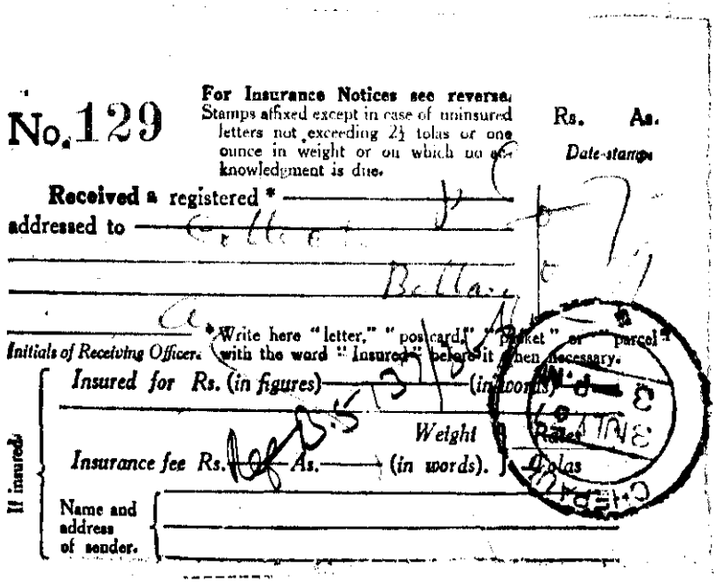
(H) (2) Bellary Taluk file Adrs TH 375/42

(F) (3) Rev Divl office file 1551-36 F

(J) (4) Bellary Taluk file TH S 9/45

Please arr for enclosures

enclosures attached


No. 129
For Insurance Notices see reverse.
Stamps affixed except in case of uninsured letters not exceeding 2½ tolas or one ounce in weight or on which no acknowledgment is due.
Rs. As.
Date-stamp
Received a registered * addressed to
Bellary
* Write here "letter," "postcard," "packet" or "parcel" with the word "Insured" before it when necessary.
Initials of Receiving Officer.
If insured
Insured for Rs. (in figures) (in words)
Insurance fee Rs. As. (in words).
Weight Tolas
Name and address of sender.

C.F. 32.

In reply, please quote number, date and short title.*

Revenue DEPARTMENT.

Received ..... *Registered* .....

From (Name) J.W. Pritchard Esq., I.C.S.,

(Designation) Collector,

Post Box ....., (STATION) Bellary.

Telegraphic Address .....

BOARD OF REVENUE 15 SEP 1937 MADRAS

To

The Secretary to the Board of Revenue, Madras.

Ref. C. 1803/36A-3 *No.*, *dated* 10-9-37. 19

Sir,

*

Assignment- Town site- Bellary Taluk and Town- S.No. 506 B/1- objection petition.

Ref:- Board's Refce. B.No. 5137/36-6 dated 29th July 1937.

I submit herewith the representation made by the assignee Mr. Devadoss in reply to the notice issued to him asking him to show cause why the order of assignment should not be cancelled. I recommend that his request may be favourably considered as the defect in the assignment was not in any way his fault.

2. I send herewith the following files for the perusal of the Board and return when they are not required.

1. Collector's Office File C. 1803-36/A-3 Current and [redacted] file.
2. Bellary Tahsildar's file L.Dis. T.H.S. 75/42 dated 2[redacted]5
3. Revenue Divisional Officer's File 1551-36.
4. Bellary Tahsildar's File T.H.S. 9/45.

3. The documents which were sent along with the petition may also be returned.

ENCLOSURES .....

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.....

SPARE COPIES .....

A.S.N./11-9P.

For Collector.

B.O. [illegible] 2/63

Enclosures to Collector's Ref.C.1803/36 A-3 dated 10-9-37

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1. Bellary Collector's Office File R.C.1803/36 A-3 containing 138 pages.

2. -Do- Note file containing 30 pages.

3. Revenue Divisional Officer's File 1551-36.

4. Bellary Tahsildar's File L.Dis. T.H.S. 75/42.

5. -do- T.H.S. 9/45.

6. Representation of Mr. Devadoss.

7. [illegible]

A.S.N./11-9P.

Mlly. 11-9-37.

For Collector.

Records items (1) to (5) sent to Weir unit Bdis Mg A 3958/37-1 of 12.X.37.

lw
12.X.

65

To,

The Collector of Bellary,

Bellary.

From,

K.Devadoss,

Kambli Weaving Expert,

Central Jail, Bellary.

Ref: C.No. 1803/36-A3-Dated 10-8-37 and received on 23-8-37.

Honoured Sir,

With reference to the above communication,I beg to submit the following:-

1. The assignment of the site in question was made on 12-9-36. The price paid by me was a reasonable one;it was the market value.

2. After the assignment,with great diificulty,I obtained the necessary permission from the Municipal authorties,to commence the construction of a building on the site in question.

3. After the foundations were laid by me,I received a communication from the Collector of Bellary dircting me to stop further construction as the matter of assignment was pending before the Board of Revenue. I was not made a party to these proceedings. I waited for some time. On my representation that I was being put to loss and inconvenience on account of the prohibition,I was again permitted to proceed with the construction.

4. At this stage one Kumara Puduval filed a suit against me O.S. no. 748/36 on the file of the District Munsif of Bellary, for a declaration of his title to the site in question,and also for a temporary injunction restarining me from proceeding with the further construction of my house. The Court granted the temporary injunction against me. I was obliged to stop the construction after the house had reached roof level.

5. Now that I had been exposed to litigation,I was obliged to engage a Vakil to defend the suit and make good my title.

Among other pleas I raised the plea that since I derived my title from the Government,The Government should be made a party to the suit. This suit was filed about November 1936.

6. After several months at my instance the District Munsif made a local inspection of the site,and subsequently passed an order in my favour vacating the temporary injunction order originally passed. Upon this I continued the further construction. The plaintiff filed an appeal against the order vacating the temporary injunction,and as the result thereof I was obliged to abandon the construction once again.

7. In the meanwhile another party,one Vencatadasri,appeared on the scene and claiming one portion of the site in question,filed a petition before the District Munsif to make him a party to the suit. In spite of contest,this man also was made a party defendant. As prayed for by me the District Munsif directed the plaintiff to make the Government a party to the suit. This has been done,and notice was issued to the District Collector. The Government Pleader has entered appearance on behalf of Government and the suit stands posted to 6-9-37 for wriiten statement of Government.

8. After the assignment in my favour I placed orders for building materials,and collected them at great cost. I got ready the woodden materials also such as Door and Window frames and roofing timber. I brought the construction to roof level. On account of the various impediments in my way the construction had to be given up more than once. As the site is situate outside the town,and as I could not engage a watchman to look after the incomplete building pending the disposal of the suit, my materials on the site and in the building began to slowly dispear as the result of thefts. Unable to bear further loss I was put to the painfull necessity of dismantling the building so that I may secure the existing materials.

9. On account of the suit I have suffered a loss of Rs 100-0-0. On account of the construction and demolition I have suffered a loss of Rs 400-0-0. With a pending suit,with several people

67

441

contesting my title and claiming title in themselves,with the inordinate delay and heavy expense of litigation,the inconvenience and loss to which I have been made subject can better be imagined than described.

10. With the suit pending in Court,wherein Government is a party and where Government itself has to make good its title,it is my respectful submission that this is not the time at all to cancell the assignment in my favour.

11. Even if there be any defect in the grant of the original assignment,in view of the hardships I have suffered,I humbly pray that the Government may be addressed to remedy or condone the defect.

12 In any event,I being a bonafide purchaser for value,am entitled to be reimbursed by the Government,to the extent of the loss incurred by me,in connection with the purchase of the site,construction on same and the consequent litigation.

13 In view of the circumstances detailed above,it is my respectful and humble submission that it is neither just nor equitable to cancell the assignment in my favour.

14. I therefore humbly pray that the authorities may be pleased to remedy the defect in the assignment,if any,and confirm my title to the site.

I beg to remain
Honoured Sir,
Your most obedient servant,

H. Devadoss

Bellary
29-8-37

69

C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying		
When copied		
When examined	21/X	AL pwl
When signed		
When despatched		

SUBJECT :— Assignment - Town site (Bellary) Bellary Tk. and town S.No. 506 B-1- Objection - Appeal - Dismissed.

READ AGAIN _____ dated _____ 19__

" " _____ " _____ 19__

READ *ALSO* :—

Rp. 1-6 cf. No. B.5137/36 From the Mr. P. Narasinga Rao, No. -, dated 31.10.1936 Q

Rp. 27-39 cf. " B.1069/37 " " P. P. Kumara Postwal " 3.3.1937 Q

p. 47 cf. B.2491/37 " Collr. of Bellary Ref. C. 1803-36/4-6-37 " Q

p. 55 cf. " B.3209/37 " " " Ref. C. " 1803-36/12 " 2.37 10 Q

p. 61 cf. B.4454/37 " " " Ref. C. " 1803-36 A3/10.9.37 Q

Order (Ms.) Resolution ~~Memo~~ No. 3292 dated 20.10.1937

Rp. 31-32 cf (1)

In this Proceedings Ref. C. No. 1803-36 dated 27-8-36 the collector of Bellary sanctioned the assignment on payment of market value of S. No 506 B-1 of Bellary Town to one K. Venkata Mr. P. Narasinga Rao, Pleader, Bellary has appealed to the Board of Revenue against the Collr's order // The main contentions of the appellant are that he had also applied for the assignment of the plot, that it should have been sold in auction and that its assignment by private negotiation to Mr. Degra[illegible], a Govt. servant on a salary of Rs.

// Sub para p2 4-5

Rs.100/- per mensem was contrary to the provisions ~~of~~ in ~~B.~~S.O. No. 21.

On a perusal of the connected records ~~the Board perused the connected records and~~ the Board observed that the plot in question was an independent plot and it had not been in the temporary occupation of the assignee. Collectors may dispense with the sale of occupancy right by auction and direct private sale of town sites only in the circumstances mentioned in ~~B.~~S.O. No. 21-14. In the present case none of the three circumstances mentioned in that B.S.O. existed. The collr's order sanctioning the assignment was in excess ~~of~~ of his powers and ~~was~~ therefore liable to cancellation. ~~The~~ The collector was requested to issue a notice to the assignee, Mr. Devadoss, to show cause within a period ~~of~~ to be fixed by ~~the collector~~ him why the order of assignment should not be

// Subpara. 2 of 19's Ref. (1957-58) //

7.1

cancelled and to submit to the Board with his ~~own~~ remarks any representation Mr. Devadoss might which ~~he may~~ make.

The Board has perused the representation of the assignee, Mr. Devadoss. He has not given any valid grounds ~~and~~ why the order of assignment should not be cancelled. The assignment was in excess of the Collr's powers and cannot therefore be upheld. The Collr's order of assignment is accordingly cancelled.

pp.65-67 c/f

2/ The ~~appellant~~ ~~Petitioner~~ ~~Doctor P.J. Kumara Pooruval~~ is referred to the Collector of Bellary for orders on his appeal petition.

3/ The Collector is requested to report whether the site ~~should~~ be reserved,

4/ As the matter is subjudice the Board is not prepared to pass an order on the petition of P.J. Kumara Pooruval d. 3/3.37 to the Board. The Collr. is requested to inform him accordingly and return the records herewith.

16/6/37

To the Collector of Bellary pp.37-39 c/f

with records sent from last reference

To the appellant ~~Doctor P.J. Kumara Pooruval~~ (through the Collector of Bellary)

1. Rao B.A. Pleader, Bellary
2. ~~Doctor P.J. Kumara Pooruval~~
3. ~~Executive Engineer~~ Executive Engineer, Bellary
4. M.R.Ry. Bhima Rao
5. M.R.Ry. T. Srinivasa Rao

thro' his Council

~~Advocate, Bellary (Executive Engineer)~~

Address H. see overleaf.

Keep o/c of pp.65-67 c/f

16/6/37

16/6.

⊗ pp.63 c/f. as stated should be referred back.

72

Address.

Appellant Mr. D. Narasinga Rao B.A.

Thro' Mr. B. Rama Rao, Adv. B.A. B.L.

Advocate,

Bellary.

(2) Doctor P. P. Kumara Raval

c/o Mr. P. Srinivasa Rao B.A. B.L.

Advocate.

Bellary.

A.P.S.

Ps (DR)

Note File

Assignment. Town site. (Bellary). Bellary Taluk & Town. S. No. 506. B1 - Objection. Appeal against the Coll's order.

M. of BS 134/36 from the Petr.

To Asst. Secy

Pl. see the petition at pp 3-5 cf.

2. This has been treated as an appeal against the Coll's order assigning an extent of 625 Sq yds of land in S. No. 506. B1 of Bellary town to one K. Devadoss. The Coll's order at P13 cf. is an original decision and an appeal therefor lies to the Board — Rule 21 - 14 A read with Rule 15 - 18.

P 86, Vol I, C.S. No 34

P 52 Vol I

P13 cf

The Coll's order appealed against is dated 27.8.36 and the present appeal has been preferred to the Bd after two months against 40 days allowed under the rules. In the Civil explained in para 5 of the petn it ~~The appellant has explained the delay in transmitting~~ should be taken that the petn has been presented ~~III~~ to V of his petition. As the appeal lies to Govt in time excluding the time taken for obtaining Copies irregularity in preferring the delay may be treated as of the orders required for filing an appeal. ~~Condoned~~ The petition may be admitted

The facts of the case can be gathered from the petition at pp 3-5 cf.

As regards the merits of the case, the assignee does not appear to be entitled to the concession contemplated in Rule 21 — 14 and the Coll's action in assigning the site to him by private negotiation and not after appeal is irregular. The general rule is that town site shall be sold in auction & Coll's can order their immediate sale

P51, Rule 21 I

Original P13 cf

(P.T.O.)

only if any of the 3 circumstances specified in Pgs. 21-14 P86 exists. The appellant had also applied for the assignment of the site & if assignment was unobjectionable, the site should ordinarily be sold to him under item (iii) of the S.O. – 21-14 A, P86, Vol. I as recommended by [illegible] P135.

It is not known why exactly the collr. has preferred the assignee to the appellant. The appellant also alleges that the land value of annas four a sq. yard fixed by the collr. is too low, that the prevailing rate is Re. one a sq. yard and that he is willing to take up the land at the enhanced value. In the circumstances, the records may be called for & examined. Para II, pp 3-4 of & [illegible] P9 of.

3 The appellant also prays that the assignee may be directed not to raise any building on the site till the appeal is disposed of. Apparently, he wants that orders shd. issue staying execution of the collr's order at P13 of. This appears to be unnecessary. If the respondent constructs any building on the site & if the ~~assignment~~ eventually assignment is cancelled ~~corrected~~ then will have to remove the materials of the structure & will not be bound to pay any compensation – Pl. see condition 1 and 9 in the form of order of assignment of house sites at pp 216-217 of Pgs. Vol. I. The stay applied for, may therefore, be refused. Para V, P7 [illegible]. [illegible] 3.11.36 [illegible]

3.11.36.

The records may be called for

3.11.36

3.11.36

3.11.36

As (dR) To Asst. Secy

Draft ordering

SLS 4.11.36. LWD 4.11

A.J.S
As (dR)

P14 of [illegible] to Rep. 16 Cts. Mr 15 5137/36-37 of 4.11.36 B590 of 136 from the Coll.

To Asst. Secy

Pl. see the petition at pp 3-5 cf, the Rep. Reply at P 19 cf. & the Coll's report at P21 cf.

2. The reasons for assigning the site in question to Mr Devadoss are stated fully in the Pshr's report at pp 57-59 cf. of (K), the RDO's report at P61 cf. of (K) & the Coll's order at pp 63-64 cf. of (K). A sketch showing the site in question with reference to Mr. P. Narasinga Rao's compound is at P23 of (J).

3. The coll's order assigning the site to Mr Devadoss is irregular for the following reasons:-

The general rule in the disposal of Government is that they should be sold by auction. The Coll can, however, dispense with the auction sale and direct the private sale of the site in the three circumstances mentioned in paragraph 14 of B.O No. 21. In the case of Mr Devadoss, none of the three circumstances existed & the Coll should therefore have moved the Board for the assignment. He was apparently led to believe that the orders in S.O. 21.14 were discretionary vide the concluding portion of the RDO's letter at P61 cf. of (K). Submit that the

(P.T.O)

Shortchin is allowed only so far as it abbles to discharging with Sale in question but not for Sanctioning breach Sales when the circumstances specified in the S.O. do not exist.

In view of this irregularity the order of assignment is sned in favour of Mr Devadoss is liable to be cancelled unless it is ratified by the Bd.

Before finial orders are passed in the matter the following points requires consideration :-

Court P. P. Kumara Pathuvar has sned a suit notice to the Coll. claiming the ownership of the site in question. It was apparently due to this, that the Coll first ordered that the assignee (Mr Devadoss) shd stay further construction of the house on the site until further orders. This order of stay was subsequently cancelled in the Coll's order as Para of (J) after Devadoss was permitted to construct the house. From the Tahsil report as per ref. of (K) it appears that the claim of Mr. P. P. K. Pandian has not been fully considered & the Tahsr is still making enquiries. It would therefore appear desirable to post pone the issue of finial orders until the ownership of the site is finally decided. If the Board agree, the Coll may be asked to submit a further report after finial orders are passed on the suit notice. For orders.

Sm
18/1/37.

DS
20/1/37.

Matter was discussed with the Dy. Comr. when there Collr. has a right direction to have a sale in auction even where the case falls under (i) or (iii) mentioned, but has no discretion to order private sale to dispense with the sale in auction when the case does not fall under (i) or (ii). He must submit the case to Bd which alone can order private sale or dispense with auction if it considers such a course advisable - provided the value does not exceed Rs 2000

AS

Put up the hour plan
MS
22-1-37

As(dR) | To Asst. Secy

Asst. Secy's order on a

the Resurvey map of the Bellary village, the map of the Bellary town and cantonment of the Resett. register of Bellary village are herewith. They do not throw any light on the question under reference.

25/1/37. The Collr's order of assignment was in excess of powers. Before ratifying or cancelling it, it appears better to call for a further report on the alleged private ownership of the site

Call for report
28/1/37

MS
26.1.37

AJS

As(dR) | To Asst. Secy

Draft enclosed.

28/1/37

MS
29-1

(3) that the said assignment is contrary to the provisions of S.C.O. No 21 dated

(4) that it should not have been granted to Devendra who is a government employee drawing a salary of Rs 110 per mensem and that he was not entitled to the grant of the site by private negotiation.

In this connection it was also the case that Kumari Parmal has also referred to a number of unsuccessful applications in the past since followed in the assignment of the land to Devendra - Vide paragraph 20 of the petition at pp. 35 37, f.

- points I to [illegible] by Navnirmaan.

As already stated, the assignment in favour of V. 1) Devendra was sanctioned by private negotiation, under S.C.O. No 21 of the Govt may dispense with sale procedure, right to auction and direct the private sale of town sites only if any one of the three circumstances referred to in the S.O. exists and provided that the value of the site does not exceed Rs. 2000 as in his letter at p. 1 of. The Govt has stated that the plot in question is an undeveloped one. It was not in the temporary occupation of the assignee. Therefore none of the circumstances referred to in the S.O. exists in the present case. The Govt in order sanctioning the assignment was therefore in excess of his powers. Apparently the Govt considered that the assignment was within his sanctioning powers

in regard to the remarks of the R.D.O. in the last sentence of his letter at p. 15 of g/K. It is submitted that the view referred to contemplated in B.P. no. 21-14 is not with reference to the decision as to whether a sale by private contract should be approved or not. He cannot have regard to private sale of some of the circumstances which should be considered.

As regards the specific matters pointed out in the petition from Kumara Godawal, it is submitted that the Tahsildar has stated all of them in para 2 of his report at pp. 107-108 of g/K. The only point which requires consideration in this connection is ~~not~~ the Tahsildar's ~~report~~ Statement - Even the provisions of B.S.O. 21(11)(2)(ii) do not require the publication of any notice in this case as the assignment was by private negotiation and the provisions of B.S.O. 21(11)(2)(i) & (ii) ~~do not apply to the present~~ case. It is submitted that the publication of a notice is unnecessary in case of assignments of tenancies by private negotiation. The assignment is however subject to cancellation in view of the fact that it was in excess of the Collector's powers. The Board can interfere in the matter under B.S.O. No 21-14-A as with B.S.O. 15-15. under it is inclined preferred to ratify the Collector's order.

Petition of Kumara Godawal.

Subsequent to the submission of the petition to the Board, Kumara Godawal appears to have

The notice prescribed in B.S.O. 21(11)(2)(ii) is a notice to any person who is desirous of making a bid in addition. Obviously there is no necessity to publish this notice if the bid is only to be considered in addition to the bid already received. The Tahsildar's duty in this matter is merely to see that the assignment is not unduly low. Perhaps a notice in terms of B.S.O. 21(11)(2)(ii) would be desirable in all cases. This was perhaps overlooked but there is no objection.

2.7.37

2.7.37

A written application for the grant of land is essential. The petitioner has already forwarded such application. Neither is the same in order. See below

2.7.37

p 33 of 47 of

impleaded the Government as a party to the suit. The suit has been posted to 20.7.37 apparently for filing the written statement. In this letter at pp 97-103 of (R), the Tahsildar has met all the contentions raised by in Kumara Somaiah's petition at pp 27-33 of. The main point urged in the petition is that the site in question has been in the possession of the petitioner and his predecessors in title for over the statutory period. In support of this he has referred to a number of documents relating to the transfer of the site by successive owners. The Tahsildar has after detailed enquiry decided that the

pp 106 102 of (R)

typed documents relied on by the petitioner are not genuine. One R.J.D. in forwarding the

p 111 (R)

Tahsildar's report observes that it might be well worth looking into the original documents when filed in the Civil Court to see whether the stamp papers on which the documents relied upon by the petitioner have been drawn are identical with those in issue in those years. In his letter supplying the Court the Tahsildar has observed that the case appears to have been concocted. In the petition at pp 43-50 of submitted to the Court, Kumara Somaiah has stated that the Tahsildar has not looked into the original documents filed by him in the Court even though he requested him to do so. As the matter has gone to the Court

suit has been filed impleading

the Court as a party it appears unnecessary to examine the documents referred to by the petitioner.

As the question whether the site in dispute is one at the disposal of the Government upon the decision of the Court it is unnecessary to express any opinion on the rival contentions of the respective parties. If the Court decides that the site is not one at the disposal of the Government the question will not arise.

The only question that remains, namely, whether the petitioner has the right to obtain the declaration of the Court that the Saint Thomas is entitled to land.

Another point which requires consideration is whether the petitioner as owner of the ship can maintain the petition, or whether it must be brought in the name of the master as representing the crew. The petitioner is entitled to bring the petition in his own name. The master and crew are only bailees of the ship and cargo and have no interest in the subject-matter of the litigation. The owner alone is interested in the result of the litigation and is entitled to the proceeds of the sale of the ship and cargo. The master and crew are not entitled to any compensation for any loss of employment caused by the detention of the ship. The owner alone is entitled to compensation for any loss of profits caused by the detention of the ship. The owner alone is entitled to compensation for any loss of profits caused by the detention of the ship.

30.6.27.

Lawrence

(Ad. N. 53)
30/29/16

The Collector's order sanctioning the assignment of the site by K. Devadoss by private negotiation is in excess of his powers. None of the circumstances specified in para 14 of B.S.O. 21, which authorize the Collector to dispense with the sale of the site by public auction exist in the present case. There does not appear to be sufficient grounds to justify assignment by private negotiation. The Collector's order may therefore be set aside.

The site may be ordered to be sold in public auction if the Civil Court decides that the land is one at the disposal of the Govt.

A
30.6.37. H.J.S.

The course suggested by A.S. would be the simplest, but in this case the suit is against

1) K. Devadoss - the person to whom the Govt. has granted the site

2) Kandha Nyanma - the person alleged to have sold the land to the Plff

3) The Govt

The order at pp 31-32 of (10), to which I have been referred, is not the actual order of the Collector. It is a draft - purporting to embody his order originally sought for him. Until we see the actual file embodying his actual order how can we say what was on the basis for passing it? They are not necessarily given in the order issued from Office

J.S. 4.7.37.

am in dual wagm: but see above J.S. 4.7.37

I do not see how we can defend the suit. Let an adjournment be taken

J.S. 4.7.37

- Ok - as above. See below J.S. 4.7.37

Defendant. Let a proceedings be issued to call Collrs says that when records are submitted to the Board - all the records are sent - the old files as well as the current files must be sent. In this case I do - the old files have not been sent - pending - found in Office.

J.S. 4.7.37

[Extract taken from new file opened No B.3001/37 2]

SM 6/7/37.

Nagamma is bound to support the Plff. It is undesirable to have some other than Govt. Deft-/ interested in contesting the suit. It seems to me to be therefore undesirable to cancel the private sale to Devadoss. The Coll.r ordered private sale (p. 17 of (k)) because it was reported that Devadoss was "direly in need of a site for a house" (p. 15 of (k)) ~~It does not appear~~ The full estimated market value at 4 as a sq yd (p. 23 of (k)) was collected. The Board has discretion to order private sale "in any circumstances if it considers such a course equitable" provided the M.V. does not exceed Rs 2000. The M.V. in this case is only Rs 1576 The Board may if it sees fit ratify the private sale.

For orders

This astonishing report at p. 15 of (k) - esp the second part of it - must be further investigated. Last year or two it was dealt with in the Misc file for the Collrs benefit. 4.7.37

Incidentally - how can any Cor ship on p. 87 of B&O Vol I paper issuing from a B&O office be signed "For Head Clerk"? 4.7.37

Extract taken. New file opened - B.No. 3003/37. Linked below. BLy 4/7.

Certainly not. I am anything but satisfied that private sale is advisable in this case. In fact the case in support of private sale has not as yet been stated to me. Let it be stated now. Presumably it was stated to the Collector. Prima facie I would set aside the Collector's order is cancelled as also was the latter. But see marginal note above. 4.7.37

New file opened No B 3003/37

Open the file at once note in this sense The file itself may then be found enclosed with the duplicate B.No. 2.7.37 before the file is sent out 5/15

Separately we must observe

Examine (1) The need for requiring the Collector to record his reasons in writing when he wishes dispenses with the ordinary procedure in a case. The Board has inquisitorial powers & his reasons ought to be clearly on record for the benefit. (2) The omission to

M.I. Extract taken For Book file opened B.No. 3003/37. provide for the publication of notice of the public that a piece of house site is going to be disposed of privately. Proclamation ought to be made in the locality to be intimated 4.7.37

A.J.S.
A.S.(L.R.)
Thro' A.
for 6/7/37

To A.S.(L.R.)

Draft Submitted.

2 Fresh files - B.No 3000-37) to 3003-37)
3(5-7-37) have been opened and numbers entered in the Clerk, Record Register. ~~this file~~ are submitted herewith for perusal.

A.J.S. 6.7.37.

A.J.S.
A.S.(L.R.)
Thro' A.Sec'y.
for 6/7/37

6/7/37

6.7.37

Board's Report B.S.137-38 of 6.7.37

B.3200-37

To A.S.(L.R.)

(K) The Collr has submitted herein the relative to his office file no. 1803-36 A.3 It has been attached to his current file of the C.M.'s office. ~~It discloses no special reasons for endorsement at (K).~~

~~Endorsement dispensing with auction sale.~~

~~For orders.~~ The rules relating to the assignment of land are set out at pp. 1-9 N.F. of the C.M.'s office note at (K). The C.M.'s order is at p. 9 N.F. of (K). The point referred to in the office note in favour of K. Devadoss is that he being a public servant deserves every consideration. - vide p. 4 N.F. of (K). The land in question is the site - p. 5 N.F. of (K). The provisions referred to in the report at p. 1 the first sub para of B.S.G. 21-14 were not at first but the question of free assignment was considered and dropped it was decided that the assignment should be subject to the payment of market value. The assignment was in excess of the C.M.'s limit

p. 86 - B.S.G. Vol I.

pp. 8-9 N.F. of (K)

4. The Govt. Pleader has been instructed to apply for a long adjournment of this suit.

for orders.

14/7/37. 15.7.37 A.J.S.

The Coll[r]. office noted correctly that the Coll[r]. could assign the land free if the applicant was too poor to purchase the site in question, but when the Tah[t]. was asked to report & he recommended that market value should be collected (in other words that Devadoss was not too poor to pay) the Coll[r]. office failed to point out that the Coll[r]. was not competent to order private sale in the circumstances of the case.

p. 6 n/f. of (k)

p. 9 n/f. of (k)

15.7.37

M.I.

Wise than that! The note put up by the Coll[r] (p 9 n/f.) said that the land could be assigned on payment of market value.

16.7.37

The assignment was in excess of the Coll[r]'s powers must be cancelled. Draft in doing so point out the irregularities Will the Coll[r] to take suitable action against the person responsible for putting up an incorrect note to him. Also call for the explanation of the Dy. Collector

(1) that they should have been expressed
(2) that they should not already have been cancelled by the Coll[r]

in the draft
17.7.37

M.1.
A.J.S.
A.S.(L.R.)

14 15

To A.S.(L.R.)

Thro' A.Secy.

Draft Submitted

A.J.S.

Type in short-hand

21.7.37

21.7.37

M.1.

20.7.37

20/7/37.

21/7/37

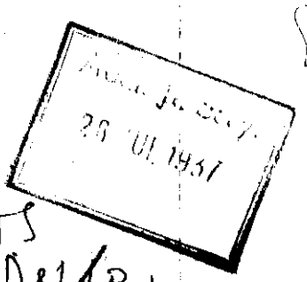
21.7.37

M.1.

I have altered : but it requires amplification
It must be self contained. See marginal
notes on it : amplify : resubmit

23.7.37

M.1
A.J.S.
A.S.(L.R.)



To A.S.(L.R.)

Please see M.1's orders above.
The draft has been amplified and ~~corrected~~
a revised draft subd.

28.7.37)

28/7/37.

29/7/37.

J.S. (~~L.R.~~)

29.7.37

M.1.

29.7.37

M-1
JS(A)
AS(LR)

Board's Reference B 51/3786-69/2878 / B 44454-3 / | Mp 57-60/J | p 61/J

To AS(LR)

Please see the Board's reference Mp 57-60/J and the report of the Collr of Bellary at p 61/J

2/ The file relates to the assignment by private negotiation on payment of market value of Srno 306-B/1 of Bellary town to one K. Devadoss. On an appeal presented by one Mr. C. Narasimhalu Reddy the Board held that the circumstances authorising Govt to sell site by private negotiation dispensing with auction sale did not exist. One Collr was asked to issue notice to the assignee to show cause why the assignment should not be cancelled.

3/ One Collr has now submitted the representation of the assignee. The assignee Mp 65 61/J
states that he has incurred much expenditure on the plot in question affects assignment to him and that it is neither just nor equitable to cancel the assignment. The Collr recommends that the request of the assignee may be favourably considered. p 61/J

~~This for orders whether the assignment may be cancelled~~ 4. Perusal is solicited of M/s orders at p. 12 N.F. above. The private sale was ordered only in consideration of the fact that Devadoss was a public servant and

(Rem 2893) | file N.F. 61/J Correspondence with file.

and hence deserved every consideration. In the event of the Cancellation of the grant the assignee is not entitled to any compensation for any buildings constructed or other improvements effected on the land – Vide Condition 9. of the Conditions of assignment at p 217 B.S.G. Vol I. Cor. slip 39 of 5. 2. 34.

For orders whether the Board will order the Cancellation of the assignment.

SU 29.9.37 The assignee has not given any valid grounds as to why the order of assignment should not be Cancelled. The assignment was in excess of the Collector's powers & may be Cancelled.

The Govt. have also been impleaded as a party to the suit pending in the Court of the Addl. Dt. Munsif, Bellary. The records sent by the Collector may be returned to him for Considering the question whether the suit can be successfully defended.

T.O. (B)

30/9/37.

1.10.37

M.I

P.T.G

(2)

What will be the effect on the suit if the order contemplated in (2)

2.10.37

M,
J.S.(A)
A.S.(LR)
~~Thro' P.S.C.~~
12.
2.10.37

To A.S. (LR).

Ref. Dfts query in the margin of the notes at p. 17 N.F. above.

Resubmitted.

2/. By Cancelling the order of assignment of the 1st in favour of Mr. Devadoss the Govt. will not be conceding the private claim of the plaintiff in the suit Viz. Kumara Podiwal. The suit will therefore continue.

The Govt. have now been impleaded as a party to the suit in addition to the assignee, Mr. Devadoss and one Nagammah who is alleged to have sold the plaint property to the plaintiff. If the assignment is cancelled Mr. Devadoss will not have any interest in the result of the suit. He may try to withdraw from the suit either by allowing the Court or by Compromising with the plaintiff. At any rate he will not actively help the Govt. in gathering materials for the defence.

It may however be stated that whether Devadoss is or is not a party to the suit the Govt. will have to prove that the land in question is one at the disposal of the Govt. and not the private property of the plaintiff. In this view the Govt. will not be at a greater disadvantage nor will they have to assume greater responsibility by the Cancellation of the assignment.

3/. Another point for Consideration is whether the Cancellation of the assignment may be Construed by the Court to be an admission of the weakness of the Govt's ~~claim~~ title to the land. It is submitted that this is not

not provable if it be made clear in the order of cancellation that the assignment is cancelled as the Court's order was in excess of its powers.

4/. It is therefore submitted that the Cancellation of the assignment will not in anyway add to the responsibilities of the Govt. in the defence of the suit nor will it affect the result of the suit.

5/. After the cancellation of the assignment, if an examination of the records of the case reveals that the case for the Govt. is strong the suit may be contested. ~~It may be~~ The Collector may be asked to report whether the suit should be defended ~~or compromised~~.

For orders.

J.S. (A)
6.10.37

M.I.

Discussed with J.S.
Orders as at (2) on p 17 n/f. Para 5 of the note on p 19 n/f approved

(11.X.37)

To A.S. (L.R.)

Draft submitted with reference to orders above. A call will be noted in the 'A' section in para 4 of the draft.

2/

The effect of the Cancellation will be merely that the Govt. will be the only party contesting the Plff's claim to ownership whereas if it is not cancelled Revenue will also be interested in showing that the Plff has no title.

6.10.37

Please speak. I am afraid I do not follow.

7.X.37

Draft "A"
12/10

A.S.(L.R.)
Draft 'A' section to make call.
Drew 2/10/37 called notice 16.X.37 16.X.37

2/ Para 2. of the draft has been added subject to approval with reference to the petition of Doctor P.P. Kumara Ponnival, Bellary, at f. 27 c/f.

16.10.37

16/10.

16/X

J.S. (A.)

I have cut out para 4 in view of L.12 ...

18.10.37

DRAFT.

ASSIGNMENT - TOWN-SITE - (BELLARY) - BELLARY TALUK AND TOWN - S. NO.506-B-1 - OBJECTION PETITIONS.

***

READ THE FOLLOWING:--

M-164 No. B.5137-36 from Mr. P. Narasingarao dated 31-10-1936 ..... Q.

M-2739 No. B.1069-37 from Mr. P.P. Kumara Poduval dated 3-3-37 ..... Q.

p474 No. B.2491-37 from the Collector of Bellary Ref. C.1803-36 dated 4-6-37 ..... Q.

p554 No. B.3200-37 from the Collector of Bellary Ref. C.1803-36 dated 12-7-37 ..... Q.

Ref. no B 5137 36- 7-37

M 31-32 of (K)

In his Proceedings Ref. C.No.1803-36 dated 27-8-36 the Collector of Bellary sanctioned the assignment ~~by private negotiation~~ on payment of market value of S. No.506 B-1 of Bellary Town to one K. Devadass. Mr. P. Narasinga Rao Pleader, Bellary, has appealed to the Board against the Collector's order.

The main contentions of the appellant are that he had also applied for the assignment of the plot, that it should have been sold in auction and that the assignment by private negotiation to K. Devadass, a government servant on a salary of Rs. 110/- per mensem was contrary to the provisions in B.S.O. No.21.

2/ The Board has perused the connected records. It observes that the plot in

uestion is an independent plot and it -
ad not been in the temporary occupation
f the assignee. ~~Under B.S.O. No.21-14, the~~
ollector may dispense with the sale of -
ccupancy right by auction and direct private
ale of town sites ~~if he considers such~~ a
~~purse equitable and provided that the value~~
~~oes not exceed Rs.500/- and if anyone of~~
~~he three circumstances referred to in the~~
~~.O. exists.~~

p86 BSO Vol I

only in the circumstances mentioned in B.S.O. No. 21-14

In the present case none of the three circumstances ~~referred to~~ mentioned in the B.S.O exist. ~~The orders of the Board of Revenue should therefore have been obtained in the matter.~~ The Collector's order sanctioning the assignment was in - excess of his powers and is therefore liable to cancellation. The Collector is requested to issue a notice to the assignee, Mr. Devadoss to show cause within a period to be fixed by the Collector why the order of assignment should not be cancelled and to submit ~~his representation~~ his own remarks to the Board with ~~the Collector's~~ remarks any representation which he may make

3/ On a perusal of the notes put up by the ollector's office the Board observes that ~~though~~ it was at first noted correctly that he Collector could assign the land free if the applicant was too poor to purchase the site in auction, ~~but~~ but when the Tahsildar who was asked to report on the point recommended that market value should be collected the Collector's office wrongly failed to point out that the Collector was not competent to order priv te sale in the circumstances of the case ~~and worse than that it was noted~~ that the land could be assigned on payment of market ue. The Collector is requested to take

This is not self contained. In what connection was the first noting?

What point?

but was not in the first noting

take suitable notice of the person responsible for putting up such an incorrect and misleading note to him.

4. The Board also observes that in his letter No.Ref. C.1551-36 F dated 17-4-36 forwarding the report of the Tahsildar the Revenue Divisional Officer, Bellary, remarked that para 14 of B.S.O. No.21 was only discretionary and the words ~~in it~~ " if he considers such a course equitable" in it did not seem to fetter the Collector's discretion and would cover a case like that of K. Devadoss. The discretion contemplated in the B.S.O. ~~is only~~ quite clearly exists only with reference to the decision whether a sale by private negotiation should be ordered when the circumstances mentioned exist, ~~but~~ the Collector has no discretion to order a private sale when these circumstances do not exist. ~~The Collector is requested to correct the incorrect views expressed by the Deputy Collector~~ The Board is astonished to find that such incorrect views should have been expressed by the Dy Collector ~~at all~~ and that they ~~should not already~~ have been corrected by the Collector. If he has not already done so the Collr should without further delay consider the misapprehensions under which the Dy Collr is labouring

To the Collector of Bellary with records to be returned with reply.

22.9.37

List the copies in duplicate for Secy

Pl call for enclosures